

BOIES SCHILLER FLEXNER LLP  
Mark C. Mao (CA Bar No. 236165)  
mmao@bsflp.com  
44 Montgomery Street, 41st Floor  
San Francisco, CA 94104  
Telephone: (415) 293 6858  
Facsimile: (415) 999 9695

SUSMAN GODFREY L.L.P.  
William Christopher Carmody (pro hac vice)  
bcarmody@susmangodfrey.com  
Shawn J. Rabin (pro hac vice)  
srabin@susmangodfrey.com  
1301 Avenue of the Americas, 32nd Floor  
New York, NY 10019  
Telephone: (212) 336-8330

MORGAN & MORGAN  
John A. Yanchunis (pro hac vice)  
jyanchunis@forthepeople.com  
Ryan J. McGee (pro hac vice)  
rmcgee@forthepeople.com  
201 N. Franklin Street, 7th Floor  
Tampa, FL 33602  
Telephone: (813) 223-5505

*Attorneys for Plaintiffs; additional counsel  
listed in signature blocks below*

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP  
Andrew H. Schapiro (pro hac vice)  
andrewschapiro@quinnemanuel.com  
191 N. Wacker Drive, Suite 2700  
Chicago, IL 60606  
Telephone: (312) 705-7400  
Facsimile: (312) 705-7401

Stephen A. Broome (CA Bar No. 314605)  
stephenbroome@quinnemanuel.com  
Viola Trebicka (CA Bar No. 269526)  
violatrebicka@quinnemanuel.com  
865 S. Figueroa Street, 10th Floor  
Los Angeles, CA 90017  
Telephone: (213) 443-3000  
Facsimile: (213) 443-3100

Jomaira A. Crawford (admitted pro hac vice)  
jomairecrawford@quinnemanuel.com  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Facsimile: (212) 849-7100

*Attorneys for Defendant; additional counsel  
listed in signature blocks below*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CHASOM BROWN, *et al.*,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**JOINT SUBMISSION IN RESPONSE TO  
DKT. 419 RE: SEALING PORTIONS OF  
FEBRUARY 22, 2022 ORDER ON JOINT  
DISCOVERY LETTER BRIEF (DKT. 418)**

Referral: Hon. Susan van Keulen, USMJ

1 February 28, 2022

2 Submitted via ECF

3 Magistrate Judge Susan van Keulen  
4 San Jose Courthouse  
5 Courtroom 6 - 4th Floor  
6 280 South 1st Street  
7 San Jose, CA 95113

8 Re: Joint Submission in Response to Dkt. 419 re: Sealing Portions of February 22, 2022  
9 Order on Joint Discovery Letter Brief (Dkt. 418)  
10 *Brown v. Google LLC*, Case No. 4:20-cv-03664-YGR-SVK (N.D. Cal.)

11 Dear Magistrate Judge van Keulen:

12 Pursuant to Your Honor's February 22, 2022 Redaction Order re: sealing portions of the  
13 February 22, 2022 Order on Joint Discovery Letter Brief (Dkt. 418), Plaintiffs and Google LLC  
14 ("Google") jointly submit this statement.  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Google respectfully seeks to seal the following portions of the February 22, 2022 Order on the Parties' joint discovery letter brief re Plaintiffs' Rule 30(b)(6) deposition notices (Dkt. 418) ("Order"), which contain Google's confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations that Google does not share publicly, including details related to internal projects, identifiers, and cookies, and their proprietary functionalities, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Google previously sought to seal most of the same information in Docket No. 410-4. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in the Order:

Document	Portions to be Filed Under Seal	Party Claiming Confidentiality
February 22, 2022 Order	Portions highlighted in yellow at:  1:4, 1:8, 2:7, 3:15, 6:8-10, 6:13, 7:4, 7:7, 7:10, 7:12, 8:8, 15:5, 15:8, 15:10, 16:15, 17:4, 17:6, 21:11, 21:13-15, 22:3-4, 22:5, 22:7-9, 22:12, 23:3, 23:6, 23:13, 24:5, 25:10, 25:13, 25:15, 26:9- 10, 27:10-11, 27:13, 27:15, 31:14, 32:6, 32:13	Google

The parties conferred on the proposed redactions to the Order. Plaintiffs take no position and do not oppose sealing the proposed redactions.

## **I. LEGAL STANDARD**

The common law right of public access to judicial records in a civil case is not a constitutional right and it is "not absolute." *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the "right to inspect and copy judicial records is not absolute" and that "courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant's competitive standing"). Sealing is appropriate when the information at issue constitutes "competitively sensitive information," such as "confidential research, development, or

1 commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at  
 2 \*4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir.  
 3 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of  
 4 information, including, but not limited to, trade secrets or other confidential research, development, or  
 5 commercial information”).

## 6 **II. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE”** 7 **STANDARD AND SHOULD ALL BE SEALED**

8 Courts have repeatedly found it appropriate to seal documents that contain “business  
 9 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Good  
 10 cause to seal is shown when a party seeks to seal materials that “contain[ ] confidential information  
 11 about the operation of [the party’s] products and that public disclosure could harm [the party] by  
 12 disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014  
 13 WL 6986068, at \*1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a litigant’s competitive  
 14 standing may be sealed even under the “compelling reasons” standard. *See e.g., Icon-IP Pty Ltd. v.*  
 15 *Specialized Bicycle Components, Inc.*, 2015 WL 984121, at \*2 (N.D. Cal. Mar. 4, 2015) (information  
 16 “is appropriately sealable under the ‘compelling reasons’ standard where that information could be  
 17 used to the company’s competitive disadvantage”) (citation omitted).

18 Here, the Order comprises confidential information regarding highly sensitive features of  
 19 Google’s internal systems and operations that Google does not share publicly. Specifically, this  
 20 information provides details related to internal projects, identifiers, and cookies, and their proprietary  
 21 functionalities. Such information reveals Google’s internal strategies, system designs, and business  
 22 practices for operating and maintaining many of its important services while complying with legal and  
 23 privacy obligations.

24 Public disclosure of the above-listed information would harm Google’s competitive standing it  
 25 has earned through years of innovation and careful deliberation, by revealing sensitive aspects of  
 26 Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone is  
 27 a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-  
 28 02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain

1 sensitive business information related to Google’s processes and policies to ensure the integrity and  
2 security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-  
3 02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because  
4 “disclosure would harm their competitive standing by giving competitors insight they do not have”);  
5 *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at \*8 (W.D. Wash. May 8, 2013) (granting  
6 motion to seal as to “internal research results that disclose statistical coding that is not publically  
7 available”).

8       Moreover, if publicly disclosed, malicious actors may use such information to seek to  
9 compromise Google’s internal systems and data structures. Google would be placed at an increased  
10 risk of cyber security threats, and data related to its users could similarly be at risk. *See, e.g., In re*  
11 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at \*3 (N.D. Cal. Sept. 25, 2013) (sealing “material  
12 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”  
13 because if made public, it “could lead to a breach in the security of the Gmail system”). The security  
14 threat is an additional reason for this Court to seal the identified information. The information Google  
15 seeks to redact, internal projects, identifiers, and cookies, and their proprietary functionalities, is the  
16 minimal amount of information needed to protect its internal systems and operations from being  
17 exposed to not only its competitors but also to nefarious actors who may improperly seek access to  
18 and disrupt these systems and operations. The “good cause” rather than the “compelling reasons”  
19 standard should apply but under either standard, Google’s sealing request is warranted.

### 20 **III. CONCLUSION**

21       For the foregoing reasons, Google respectfully requests that the Court seal the identified portions  
22 of the Order.  
23  
24  
25  
26  
27  
28

Respectfully,

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

BOIES SCHILLER FLEXNER LLP

/s/ Andrew H. Schapiro/s/ Mark C. Mao

Andrew H. Schapiro (admitted *pro hac vice*)  
andrewschapiro@quinnemanuel.com  
 191 N. Wacker Drive, Suite 2700  
 Chicago, IL 60606  
 Tel: (312) 705-7400  
 Fax: (312) 705-7401

Mark C. Mao (CA Bar No. 236165)  
mmao@bsflfp.com  
 Sean Phillips Rodriguez (CA Bar No.  
 262437)  
srodriguez@bsflfp.com  
 Beko Reblitz-Richardson (CA Bar No.  
 238027)  
brichardson@bsflfp.com  
 44 Montgomery Street, 41<sup>st</sup> Floor  
 San Francisco, CA 94104  
 Tel: (415) 293 6858  
 Fax: (415) 999 9695

Stephen A. Broome (CA Bar No. 314605)  
sb@quinnemanuel.com  
 Viola Trebicka (CA Bar No. 269526)  
violatrebicka@quinnemanuel.com  
 865 S. Figueroa Street, 10th Floor  
 Los Angeles, CA 90017  
 Tel: (213) 443-3000  
 Fax: (213) 443-3100

James W. Lee (*pro hac vice*)  
jlee@bsflfp.com  
 Rossana Baeza (*pro hac vice*)  
rbaeza@bsflfp.com  
 100 SE 2<sup>nd</sup> Street, Suite 2800  
 Miami, FL 33130  
 Tel: (305) 539-8400  
 Fax: (305) 539-1304

Diane M. Doolittle (CA Bar No. 142046)  
dianedoolittle@quinnemanuel.com  
 555 Twin Dolphin Drive, 5th Floor  
 Redwood Shores, CA 94065  
 Telephone: (650) 801-5000  
 Facsimile: (650) 801-5100

William Christopher Carmody (*pro hac vice*)  
bcarmody@susmangodfrey.com  
 Shawn J. Rabin (*pro hac vice*)  
srabin@susmangodfrey.com  
 Steven Shepard (*pro hac vice*)  
sshepard@susmangodfrey.com  
 Alexander P. Frawley (*pro hac vice*)  
afrawley@susmangodfrey.com  
 SUSMAN GODFREY L.L.P.  
 1301 Avenue of the Americas, 32<sup>nd</sup> Floor  
 New York, NY 10019  
 Tel: (212) 336-8330

Jomaire A. Crawford (admitted *pro hac vice*)  
jomairecrawford@quinnemanuel.com  
 51 Madison Avenue, 22nd Floor  
 New York, NY 10010  
 Telephone: (212) 849-7000  
 Facsimile: (212) 849-7100

Amanda Bonn (CA Bar No. 270891)  
abonn@susmangodfrey.com  
 SUSMAN GODFREY L.L.P.  
 1900 Avenue of the Stars, Suite 1400  
 Los Angeles, CA 90067  
 Tel: (310) 789-3100

Josef Ansorge (admitted *pro hac vice*)  
josefansorge@quinnemanuel.com  
 Carl Spilly (admitted *pro hac vice*)  
carlspilly@quinnemanuel.com  
 1300 I Street NW, Suite 900  
 Washington D.C., 20005  
 Tel: (202) 538-8000  
 Fax: (202) 538-8100

John A. Yanchunis (*pro hac vice*)  
jyanchunis@forthepeople.com  
 Ryan J. McGee (*pro hac vice*)  
rmcgee@forthepeople.com  
 MORGAN & MORGAN, P.A.

Jonathan Tse (CA Bar No. 305468)  
jonathantse@quinnemanuel.com  
 50 California Street, 22nd Floor  
 San Francisco, CA 94111  
 Tel: (415) 875-6600  
 Fax: (415) 875-6700

*Attorneys for Defendant Google LLC*

1 201 N Franklin Street, 7th Floor  
2 Tampa, FL 33602  
3 Tel: (813) 223-5505  
4 Fax: (813) 222-4736

5 Michael F. Ram (CA Bar No. 104805)  
6 [mram@forthepeople.com](mailto:mram@forthepeople.com)  
7 MORGAN & MORGAN, P.A.  
8 711 Van Ness Avenue, Suite 500  
9 San Francisco, CA 94102  
10 Tel: (415) 358-6913

11 *Attorneys for Plaintiffs*  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTESTATION OF CONCURRENCE**

I am the ECF user whose ID and password are being used to file this Joint Submission.  
Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that each of the signatories identified above has  
concurred in the filing of this document.

Dated: February 28, 2021

By /s/ Andrew H. Schapiro  
Andrew H. Schapiro  
*Counsel on behalf of Google LLC*